



Application No. (if known): 10/670,666

Attorney Docket No.: 49954-DIV 1 (70551)

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Response to Non-Final Official Action Requiring Election/Restriction (4
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Attorney Docket No. 49954 DIV 1 (70551)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): J. Nakajima, et al.
SERIAL NO: 10/670,666 Examiner: Ortiz Criado, Jorge L.
FILED: September 24, 2003 Group: 2656
FOR: OPTICAL DISK HAVING PITS OF DIFFERENT DEPTH FORMED
THEREIN, OPTICAL DISK DEVICE FOR REPRODUCING THE SAME,
AND METHOD OF REPRODUCTION

CERTIFICATE OF EXPRESS MAILING

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By: Kathryn A. Grindrod
Kathryn A. Grindrod

Mail Stop: AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO NON-FINAL OFFICIAL
ACTION REQUIRING ELECTION/RESTRICTION**

This is in response to the currently outstanding non-final Official Action in the above-identified case dated 10 March 2006.

Claims 5-33 are pending in the subject application. The Preliminary Amendment filed in this application previously canceled claims 1-4 and 34-41. Claims 5-33 now are subject to a restriction and/or election requirement.

In the currently outstanding non-final Official Action, the Examiner has:

1. Failed to comment upon the acceptability of the drawings filed with this application or to acknowledge Applicants' claim for foreign priority, or to confirm the receipt by the United States Patent and Trademark Office of the required certified copies of the priority documents – **acknowledgement of Applicants' claim for foreign priority and the receipt by the United States Patent and Trademark Office of the required copies of the priority document as well as the acceptance of the drawings as filed with this application all are respectfully requested in response to this communication.**
2. Failed to acknowledge Applicant's various Information Disclosure Statements by providing the Applicant with a signed, dated and initialed copies of the Forms PTO-1449 submitted therewith in confirmation of the consideration of the art listed therein – **acknowledgement of Applicants' Information Disclosure Statements in response to this communication is respectfully requested;**
3. Identified the following patentably distinct inventions:

Group I – Claims 5-14 drawn to an optical disk, classified in class 369, subclass 275.4

Group II – Claims 15-33, drawn to an optical disk reproducing device and method of reproduction, classified in class 369, subclass 44.41.
4. Pursuant to 35 USC 121, required the Applicants to elect one of the foregoing inventions for prosecution on the merits to which the claims shall be restricted.

6. Indicated that in the event that the Group II invention is elected a reply to the present restriction requirement must include also include a restriction to one of the species specified in the currently outstanding Official Action and a listing of all claims that are readable thereon.

In response to the currently outstanding requirement for restriction, **Applicants elect the Group I invention, Claims 5-14.**

In view of the foregoing election, Applicants believe that no restriction to one of the species listed in the currently outstanding Official Action or a listing of the claims readable on that species is required.

Applicants respectfully submit that this communication is fully responsive to the currently outstanding Official Action in the above-identified application. Accordingly, early substantive consideration and allowance of the above elected Claims 5-14 is respectfully requested.

Applicants also believe that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: April 4, 2006



SIGNATURE OF PRACTITIONER

Reg. No.: 27,840

David A. Tucker

(type or print name of practitioner)
Attorney for Applicant(s)

Tel. No. (617) 517-5508

Edwards & Angell, LLP
P.O. Box 55874

P.O. Address

Customer No.: 21874

Boston, MA 02205
